

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Respondent,	)	No. 6:11-cr-60138-AA
	)	
v.	)	ORDER
	)	
SEVERO HILARIO-PEREZ,	)	
	)	
Defendant-Petitioner.	)	
	)	
	)	

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AIKEN, Chief Judge:

The court sentenced defendant to a 97-month term of imprisonment following a plea of guilty to possession of methamphetamine with intent to distribute. Defendant filed a notice of appeal on November 21, 2012. On November 27, 2012, defendant also filed a petition for habeas relief pursuant to 28 U.S.C. § 2255.

In connection with the petition for habeas relief, defendant

seeks leave to proceed *in forma pauperis* (IFP). However, there is no filing fee for section 2255 petitions. Accordingly, defendant's motion for leave to proceed IFP is denied as moot.

In addition, because defendant's appeal is pending before the Ninth Circuit, defendant's petition is not ripe for review by this court. See United States v. Deeb, 944 F.2d 545, 548 (9th Cir. 1991). Accordingly, defendant's petition is denied without prejudice to refile after the direct appeal is completed.

#### CONCLUSION

For the reasons stated above, defendant's motions for leave to proceed IFP (#33) and to vacate or correct sentence pursuant to 28 U.S.C. § 2255 (#32) are denied and this proceeding is dismissed.

#### CERTIFICATE OF APPEALABILITY

The court certifies that the petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. 2253(c)(2). This cause is not appropriate for appellate review.

IT IS SO ORDERED.

DATED this 25<sup>th</sup> day of December, 2012.



Ann Aiken  
United States District Judge